

Kevin M. Lippman
Texas Bar No. 00784479
Thomas D. Berghman
Texas Bar No. 24082683
MUNSCH HARDT KOPF & HARR, P.C.
500 N. Akard Street, Suite 3800
Dallas, Texas 75201
Telephone: (214) 855-7500
Facsimile: (214) 855-7584
Email: klippman@munsch.com
tberghman@munsch.com

*Attorneys for Toyota Industries
Commercial Finance, Inc.*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re:	§	Chapter 11
	§	
ODES INDUSTRIES, LLC.	§	Case No. 19-43582-ELM-11
	§	
Debtor.	§	

**LIMITED OBJECTION OF TOYOTA INDUSTRIES COMMERCIAL
FINANCE, INC. TO MOTION TO SELL PROPERTY OF THE ESTATE**

TO THE HONORABLE EDWARD L. MORRIS, UNITED STATES BANKRUPTCY JUDGE:

Toyota Industries Commercial Finance, Inc. ("TICF"), by and through its undersigned counsel, hereby submits this *Limited Objection of Toyota Industries Commercial Finance, Inc. for Relief from the Automatic Stay* (the "Motion") and in support thereof would respectfully show the Court as follows:

1. TICF is a creditor in this Bankruptcy Case, having previously leased two forklifts¹ to the Debtor.² On February 24, 2020, the Court entered its *Agreed Order Lifting the Automatic Stay* [Doc. 67] in connection with the Leased Equipment.

2. On February 12, 2020, the Debtor filed its *Motion to Sell Property of the Estate* ("Motion") [Doc. 63] proposing to sell certain property of the Debtor. Although the Motion and the exhibit to

¹ Toyota forklifts Model No. 8FGCU25, Serial Nos. 81273 and 81289 (the "Leased Equipment").

² See generally, Motion of Toyota Industries Commercial Finance, Inc. for Relief from Automatic Stay [Doc. 58]

the same do not purport to sell the Leased Equipment to the proposed buyer, prior pleadings³ related to the proposed sale indicate that “all assets” of the Debtor are being sold. For example, § 1.1 of the APA provides that the Debtor is selling “all assets, properties, privileges, rights, interests, business and goodwill belong to [the Debtor] ...”, including “all machinery equipment, computers, furniture, tools and other fixed assets and goods owned by [the Debtor]....”

3. TICF has clarified with the Debtor that the Leased Equipment is not part of the proposed sale. However, out of an abundance of caution, TFCF files this Limited Objection to any sale of the Leased Equipment unless the same is in compliance with the Agreed Order, which provides that any sale of the Leased Equipment is appropriate only if certain conditions are satisfied, and which conditions the proposed sale do not satisfy.

WHEREFORE, TFCF respectfully requests that any order approving a proposed sale of the Debtor’s assets comport with the Agreed Order.

Dated: February 28, 2020

Respectfully submitted,

MUNSCH HARDT KOPF & HARR, P.C.

By: /s/ Thomas Berghman
Kevin M. Lippman
Texas Bar No. 00784479
Thomas D. Berghman
Texas Bar No. 24082683
500 N. Akard Street, Suite 3800
Dallas, Texas 75201-6659
Telephone: 214.855.7500
Facsimile: 214.855.7584
klippman@munsch.com
tberghman@munsch.com

*Counsel for Toyota Industries
Commercial Finance, Inc.*

³ See *Order Approving Bidding Procedures for Sale of Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances* [Doc. 62] and *Asset Purchase Agreement by and between Odes Industries, LLC and Massimo Motor Sports, Inc.* [Doc. 62, ECF p. 7–34] (the “APA”).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 28th day of February, 2020, he caused a true and correct copy of this Motion to be served (i) electronically on those parties receiving electronic service through the Court's ECF system, and (ii) by U.S. first class mail, postage prepaid, to all parties listed on the attached Service List.

/s/ Thomas Berghman
Thomas D. Berghman, Esq.